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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,719	08/11/2001	Clarence E. Blanchard	JT-3166-US	6359

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NEW YORK, NY 10022-7519

EXAMINER

WRIGHT, ANDREW D

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 09/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/927,719	BLANCHARD, CLARENCE E.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Andrew Wright	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 June 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 29-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 34-42 and 45-48 is/are allowed.
- 6) ☒ Claim(s) 29-31, 43 and 44 is/are rejected.
- 7) ☒ Claim(s) 32 and 33 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other:  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 29-31, 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davies (US 2,676,559) in view of Hall (US 5,273,467). Davies discloses a boat with an outboard propulsion system mounted to the hull. The propulsion system comprises an engine (1), an exhaust housing (4), thrust bracket (5), propeller unit (column 7), and drive train (column 7). The exhaust housing is pivotally mounted to the hull, supports the engine, and has an internal exhaust gas passage. The thrust bracket comprises a flat plate that lies flat against the stern (see figures 1, 3, 10-12) and walls (136). The walls are parallel to each other and extend perpendicular to the flat plate. The walls (136) receive the exhaust housing (4) in the space defined between them, and prevent lateral rotation of the exhaust housing. Davies shows a horizontal propeller shaft that drives a propeller. The propeller shaft is connected to the engine via a drive train that includes a vertical drive shaft. Davies does not show an axial flow pump unit with an impeller and an exhaust gas passage that is in communication with the passage of the housing. Hall shows as prior art an outboard motor in figure 1. The depiction is essentially that of Davies: a propeller drive and the exhaust being routed through the drive shaft housing below the waterline while not

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going through the propeller unit. Hall shows in figures 5 and 6 that one can replace the propeller unit with an axial flow pump unit, the unit having an impeller and also having the exhaust routed therethrough. The axial flow pump unit has an exhaust passage (42) that communicates with exhaust passage (62) of housing (36). The axial flow pump unit inherently has a water duct. Hall teaches that it is known to route the exhaust through the hub to reduce drag (column 1, lines 25-41). Hall teaches that it is known to replace a propeller with an axial flow impeller for the purpose of reducing hazards to swimmers (column 1, lines 59-66). Hall teaches that the impeller is attached to horizontal propeller shaft (16). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Davies by using an impeller instead of a propeller and by routing the exhaust through the impeller unit, both as taught by Hall.

3. Regarding claim 30, the thrust bracket (5) has a flat plate and a pair of thrust walls (136) that are generally perpendicular to the plate.

4. Regarding claim 31, the drive train comprises a generally vertical drive shaft coupled to the engine and gears for converting the rotation of the drive shaft into rotation of the horizontal propeller shaft.

5. The modified invention of Davies includes all of the recited limitations of claim 43. The walls (136) comprise locking screws (137). The outboard water jet propulsion system comprises bridge piece (138). Bridge piece (138) has respective recesses that receive screws (137). In this way the walls engage a pair of respective recesses of the outboard water jet propulsion system. Regarding claim 44, the propulsion system

comprises sleeve (132) that comprises a pair of semi-cylindrical brackets bolted together about housing (4). The brackets are coupled via bracket (131) to a tilt pivot tube that extends around bolt (130). The propulsion unit is pivotable relative to the hull about the longitudinal axis of bolt (130).

***Allowable Subject Matter***

6. Claims 34-42 and 45-48 are allowed.
7. Claims 32 and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

8. Applicant's arguments filed 6/20/03 have been fully considered but they are not persuasive.
9. Regarding claim 29, applicant first argues that the exhaust housing of Davies (US 2,676,559) is not pivotally mounted to the hull. Applicant argues that the bracket (131), not the exhaust housing, is pivotally mounted to the hull. In response to this argument, it is noted that applicant admits that the exhaust housing is mounted to the bracket (page 7 of Remarks, Paper #11), and that the bracket (131) is pivotally mounted to the hull (page 8 of Remarks, Paper #11). Applicant further admits that the exhaust housing is pivotable in relation to the hull (page 7 of Remarks, Paper #11). Therefore, the exhaust housing is pivotally mounted to the hull via bracket (131). The claim does not recite anything more than the broad limitation "pivotally mounted". The broad recitation does not exclude or negate the existence of intermediate members.

10. Applicant's second argument with respect to claim 29 is that the thrust bracket of Davies is not a flat plate and does not lie against the stern. In response it is noted that member (5), not bridge piece (138), is considered to be the thrust bracket. Applicant further argues that if member (5) is the thrust bracket, then horns (136) "do not receive, or support the weight or pressure of, the exhaust housing therein" (page 9 of Remarks, Paper #11). Member (5) comprises a flat plate that lies flat against the stern (see figures 1, 3, and 10-12). Member (5) also comprises horns (136). The horns constitute side walls that are parallel to each other and extend perpendicular to the flat plate. The horns define a space and receive the exhaust housing in that space. The horns prevent lateral rotation of the exhaust housing by providing a mechanical stop to each side of the housing is situated within the space. It is noted that the features upon which applicant relies (i.e., "support the weight or pressure of") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

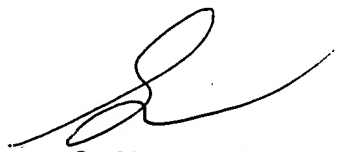
12. Any inquiry concerning this communication should be directed to examiner Andrew D. Wright at telephone number (703) 308-6841. The examiner can normally be reached Monday-Friday from 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano, can be reached at (703) 308-0230. The fax number for official communications is 703-872-9326 for before final proceedings and 703-872-9327 for after final proceedings. The fax number for the examiner for unofficial communications is 703-746-3548.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist at (703) 308-1113.

Andrew D. Wright  
Patent Examiner  
Art Unit 3617

*AW* 9/4/03

  
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